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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

To amend the Endangered Species Act of 1973 to improve the process
for designating critical habitat and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GOSAR introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Endangered Species Act of 1973 to improve
the process for designating critical habitat and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Critical Habitat Im-
5 provement Act of 2019”.

1 **SEC. 2. DESIGNATION OF CRITICAL HABITAT; STANDARD.**

2 Paragraph 3 of section 4(a) of the Endangered Spe-
3 cies Act of 1973 (16 U.S.C. 1533(a)) is amended to read
4 as follows:—

5 “(3)(A) The Secretary shall issue a final regu-
6 lation designating any habitat of a species deter-
7 mined to be an endangered species or threatened
8 species that is critical habitat of such species.

9 “(B) The Secretary shall make any designation
10 required under clause (i)—

11 “(i) at the time the species is listed as
12 threatened or endangered; or

13 “(ii) during the 1 year period beginning on
14 the date of the final approval of a recovery plan
15 for the species under section 4(f).”.

16 **SEC. 3. BASIS FOR DETERMINATION.**

17 Section 4(b)(2) of the Endangered Species Act of
18 1973 (16 U.S.C. 1533(b)(2)) is amended—

19 (1) by inserting “(A)” after “(2)”; and

20 (2) by adding at the end the following:

21 “(B) In determining whether an area is critical habi-
22 tat, the Secretary shall seek and, if available, consider in-
23 formation from State and local governments in the vicinity
24 of the area, including local resource data and maps.

25 “(C) Consideration of economic impact under this
26 paragraph shall include—

1 “(i) direct, indirect, and cumulative economic
2 costs and benefits, including consideration of
3 changes in revenues received by landowners, the
4 Federal Government, and State and local govern-
5 ments; and

6 “(ii) costs associated with the preparation of re-
7 ports, surveys, and analyses required to be under-
8 taken, as a consequence of a proposed designation of
9 critical habitat, by landowners seeking to obtain per-
10 mits or approvals required under Federal, State, or
11 local law.”.

12 **SEC. 4. CONTENT OF NOTICES OF PROPOSED DESIGNATION**
13 **OF CRITICAL HABITAT.**

14 Section 4(b)(5)(A) of the Endangered Species Act of
15 1973 (16 U.S.C. 1533(b)(5)(A)) is amended—

16 (1) in clause (i) by striking “, and” and insert-
17 ing a semicolon;

18 (2) in clause (ii)—

19 (A) by striking “and to each” and insert-
20 ing “to each”; and

21 (B) by inserting “, and to the county and
22 any municipality having administrative jurisdic-
23 tion over the area” after “to occur”; and

24 (3) by adding at the end the following:

1 “(iii) with respect to a regulation to des-
2 ignate or revise a designation of critical habi-
3 tat—

4 “(I) publish maps and coordinates
5 that describe, in detail, the specific areas
6 to be designated as critical habitat and all
7 field survey data upon which such designa-
8 tion is based; and

9 “(II) maintain such maps, coordi-
10 nates, and data on a publicly accessible
11 website of the Department; and

12 “(iv) include in each of the notices re-
13 quired under this subparagraph a reference
14 to the website referred to in clause
15 (iii)(II);”.

16 **SEC. 5. CLARIFICATION OF DEFINITION OF CRITICAL HABI-**
17 **TAT.**

18 Section 3(5) of the Endangered Species Act of 1973
19 (16 U.S.C. 1532(5)) is amended—

20 (1) in subparagraph (A) by striking clauses (i)
21 and (ii) and inserting the following:

22 “(i) the specific areas—

23 “(I) that are within the geographical
24 area determined by field survey data to be
25 inhabited by the species at the time such

1 areas are designated as critical habitat in
2 accordance with section 4; and

3 “(II) that have physical and biological
4 features that are necessary to avoid extinc-
5 tion of the species and may require special
6 management considerations or protec-
7 tion.”;

8 (2) by striking subparagraph (B);

9 (3) by redesignating subparagraph (C) as sub-
10 paragraph (B); and

11 (4) by adding at the end the following:

12 “(C) For purposes of subparagraph (A)(i) the
13 term ‘geographical area determined by field survey
14 data to be occupied by the species’ means the spe-
15 cific area that, at the time the area is designated as
16 critical habitat in accordance with section 4, is being
17 used by the species for breeding, feeding, sheltering,
18 or another essential behavioral pattern.”.

19 **SEC. 6. NULLIFICATION OF EXPANSIVE CRITICAL HABITAT**
20 **REGULATIONS AND POLICIES.**

21 (a) The following final rules shall no force or effect:

22 (1) The final rule issued by the United States
23 Fish and Wildlife Service and the National Marine
24 Fisheries Service entitled “Endangered and Threat-
25 ened Wildlife and Plants; Revisions to the Regula-

1 tions for Impact Analyses of Critical Habitat” (78
2 Fed. Reg. 53058 (August 28, 2013)).

3 (2) The final rule issued by the United States
4 Fish and Wildlife Service and the National Marine
5 Fisheries Service entitled “Definition of Destruction
6 or Adverse Modification of Critical Habitat” (81
7 Fed. Reg. 7214 (February 11, 2016)).

8 (b) The final policy issued by issued by the United
9 States Fish and Wildlife Service and the National Marine
10 Fisheries Service entitled “Final Policy on Interpretation
11 of the Phrase ‘Significant Portion of Its Range’ in the En-
12 dangered Species Act’s Definitions of ‘Endangered Spe-
13 cies’ and ‘Threatened Species’” (79 Fed. Reg. 37577
14 (July 1, 2014)) shall have no force or effect.